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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	**CC Docket No. 96-98**
	)	
Inter-Carrier Compensation for ISP-Bound Traffic	)	**CC Docket No. 99-68**

COMMENTS OF SPRINT CORPORATION

In a Public Notice released June 23, 2000 (FCC 00-227), the Commission requested comment on two issues regarding calls placed within a local calling area to an Internet Service Provider (ISP). First, in light of the Court of Appeals' remand of a previous Commission decision holding that such calls are jurisdictionally interstate,[1] the Commission asked for further comment on the jurisdictional nature of ISP-bound traffic. Second, the Commission asked for an update of the record, developed through comments and replies filed in April 1999, on what the intercarrier compensation arrangements for such traffic should be when such calls utilize the services of more than one local exchange carrier.

Sprint's comments are confined to the second of the two issues enumerated above, although Sprint reserves the right to reply to the comments of other parties on the jurisdictional issue. Regardless of whether the Commission ultimately determines ISP-bound local calls are interstate or intrastate, it nonetheless must set the ground rules for

[1] *Bell Atlantic Telephone Companies v. FCC*, 206 F.3rd 1 (DC Cir. 2000).

intercarrier compensation for such calls. If they are interstate, the Commission has already recognized that it must establish appropriate intercarrier compensation.[2] If, on the other hand, the Commission decides that these calls are jurisdictionally intrastate, the Commission still has an important role to play in establishing appropriate intercarrier compensation for these calls. Because these calls would be considered local calls, they would be subject to the reciprocal compensation provisions of Section 251(b)(5), and for all of the reasons previously set forth by the Commission in its First Report and Order in CC Docket No. 96-98,[3] the resources of the carriers and the state commissions — and more importantly, the public interest — would best be served if there is a uniform national standard for such intercarrier compensation that the states can then apply in arbitrations and other relevant state proceedings.

The basic framework for reciprocal compensation, set forth in Subpart H of Part 51 of the Rules, is sound: The incumbent LEC's rates for transport and termination should be based on appropriate forward-looking costs (unless, pursuant to Section 51.713, bill-and-keep arrangements are adopted) (see Section 51.705),[4] and those rates should be applied symmetrically unless the non-ILEC or the smaller of the two ILECs, as the case may be, can prove to the state commission, using appropriate forward-looking economic costs, that a higher rate is justified for that carrier (Section 51.711).[5]

There is only one refinement to the current rules that is necessary — and this refinement should be applied to all types of traffic, including both voice calls and calls to

[2] *See* the Commission's Declaratory Ruling and Notice of Proposed Rulemaking in the above-captioned proceedings, 14 FCC Rcd 3689 (1999).
[3] 11 FCC Rcd 15499 (1996) (subsequent history omitted).
[4] If this week's decision by the Eighth Circuit (*Iowa Utilities Bd. v. FCC*, No. 96-3321, filed July 18, 2000) is not stayed or reversed on further appeal, it will be necessary to reconsider how forward-looking costs are measured.
[5] If the Commission determines that the ISP-bound calls are jurisdictionally interstate, it should adopt rules analogous to those in Part 51, Subpart H, to govern compensation between local carriers for such calls.

ISPs: The reciprocal compensation rate for local switching should be bifurcated into a fixed call set-up charge and a separate per-minute charge. This structure for local switching was adopted earlier this month by the Texas PUC,[6] and places local switching cost recovery on a much sounder economic footing. A significant portion of the costs of local switching consists of set-up costs that do not vary with the duration of the call. These costs include the amount of time the switch central processor requires to set up the call, together with some SS7 network costs associated with setting up the trunk required for the call, while the variable switching costs consist primarily of the line and trunk investment portions of the switch. Today, both sets of costs are generally recovered by a single minute of use (MOU) charge that results in appropriate cost recovery only for calls of average duration. For very short calls, the terminating carrier fails to fully recover its call set-up costs, whereas on very long calls, that carrier over-recovers its costs.

This potential for cost over-recovery on long calls can be illustrated with the rates and call lengths utilized in the Texas PUC's decision. The PUC found (*id.* at 47) that the average voice call lasts 3 minutes and the average ISP call is 29 minutes long.[7] The PUC (at 49) prescribed a call set-up rate of $.0010887 per call and a per-minute charge of $.0010423. Under the current approach of using a blended rate, there would be a single charge to recover the fixed cost ($.0010887) plus the variable cost for an average duration call of 3 minutes (3 x $.0010423)), or a total cost of $.0042156, resulting in a rate for local switching of $.0014052 per MOU. Using the Texas PUC data, the total local switching cost for a 29-minute ISP call would be $.0313154 ((29 x $.0010423) + $.0010887). However, charging a blended rate of $.0014052 per minute for this call

[6] *Proceeding to Examine Reciprocal Compensation Pursuant to Section 252 of the Federal Communications Act of 1996*, Docket No. 21982, Arbitration Award, July 13, 2000, at 49.
[7] In fact many customers — particularly those with second lines — may maintain a call into their ISP for several hours at a time.

would result in a reciprocal compensation payment of $.0407508 — 30% above the actual local switching cost.

The Commission has previously recognized the fact that local switching costs consist of both fixed and variable components and, for interstate access purposes, has permitted ILECs to establish a two-part rate for local switching for this purpose. *See Access Charge Reform*, 12 FCC Rcd 15982, 16042 (¶138) (1997) (subsequent history omitted). In view of the far longer than average holding times involved in calls to ISPs and the directional imbalance which often exists in traffic between ILECs and CLECs that primarily serve ISPs, it is entirely appropriate to make a two-part rate structure mandatory, rather than permissive.

In its 1997 *Access Reform* order, the Commission held that, for interstate access purposes, the permissive call set-up charge should not include central processor costs on the ground that it would be too difficult to allocate such costs between set-up and MOU elements. *Id.* at 16045. The Commission also stated (*id.*) that SS7 signalling costs should not be included in the set-up charge if they were already encompassed by a separate signalling charge. Although Sprint did not challenge the Commission's *Access Reform* order on this point, the Commission was wrong in believing it would be difficult to separate the cost of the central processor between set-up and per-MOU elements. In fact, the Telecordia SCIS switching cost model widely employed by the industry has a standard output for central processor call set-up costs. As for signalling costs, these costs are not recovered, in the reciprocal compensation context, by any other charge. Thus, the strictures adopted in *Access Reform* to a local switching set-up charge should not be applied in this context.

Sprint recognizes that establishing a two-part rate for local switching would require modification of existing billing systems and proposes that the Commission give the industry a reasonable time (one year should be more than sufficient) to modify their billing systems to accommodate the two-part charge. Alternatively, the two-part structure could be satisfactorily approximated by having different local switching rate bands for different bands of holding time. Each interconnected carrier could be assigned to a band based on average hold times for that carrier, determined by traffic studies.

Sprint urges the Commission to adopt this two-part structure for compensation between local carriers regardless of whether it determines that the underlying traffic is interstate or intrastate. This structure, coupled with the existing framework for intercarrier compensation discussed above, should fairly compensate local carriers that serve ISPs. Sprint also urges the Commission to act quickly. The proper prospective basis for establishing compensation for ISP-bound calls has been in regulatory limbo since the Commission opened this issue for comment in February 1999. The resulting business uncertainty is harmful to both ILECs and CLECs and, ultimately, to the public they serve.

Respectfully submitted,

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July 21, 2000

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was sent by Hand Delivery on this 21st day of July, 2000 to the parties listed below.

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